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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/166,496	10/05/1998	HOLGER BELLMANN	10191/821	9214
26646	7590	12/16/2003	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			BROADHEAD, BRIAN J	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/166,496

Applicant(s)

BELLMANN ET AL.

Examiner

Brian J. Broadhead

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-11 and 17-20 is/are allowed.
- 6) ☒ Claim(s) 1,3,12 and 14 is/are rejected.
- 7) ☒ Claim(s) 2,4-7 and 11-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 1998 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 3, 12, and 14, are rejected under 35 U.S.C. 102(b) as being anticipated by Sherrod, 4642756.

2. As per claim 1 and 12, Sherrod discloses a plurality of activatable modules with corresponding priority values on lines 14-16, on column 3; a scheduler activating the modules as a function of the corresponding priority values on lines 20-22, on column 3; the activates modules generating data by analyzing the states of the system on lines 1-8, on column 4; and a priority manager modifying the corresponding priority value of at least one of the modules to one of increase and decrease the respective corresponding priority value relative to the priority value of another of the activatable modules on lines 35-42, on column 4.

3. As per claim 3 and 14, Sherrod discloses the priority manager modifies the corresponding priority of the module as a function of the states of the system on lines 35-37, on column 4.

***Allowable Subject Matter***

2. Claim 8, 9, 11, and 10, 17-20 are allowed.

3. Claims 2, 4, 13, 15, 5, 6, 7 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose selecting a first module with the highest priority for activation wherein the scheduler assembles a residual set of modules from the set of activatable modules wherein the scheduler selects a third module from residual set of the activatable modules for activation; and wherein the scheduler repeatedly selects a third module, each of the third modules having a respective highest priority wherein the scheduler assembles the residual set of the activatable modules which exclude the third modules already selected for activation and fourth modules that must not be activated simultaneously with the third modules, wherein the scheduler selects repeatedly until the residual set does not contain any of the activatable modules; modifying the corresponding priority value of a module as a function of a time period; modifying the respective corresponding priority value of a particular module of the activatable modules as a function of an activation message and a deactivation message; modifying the corresponding priority value of a particular module of the activatable modules as a function of absolute time signals.

#### ***Response to Arguments***

5. Applicant's arguments filed 9-29-03 have been fully considered but they are not persuasive. For claims 1, 3, 12, and 14, applicant argues the activated modules generating data by analyzing the states of the system is not disclosed by Sherrod. This

is disclosed in Sherrod as the tasks themselves. Each task of the system is doing some action that depends on the state of the system.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Broadhead whose telephone number is 703-308-9033. The examiner can normally be reached on Monday through Thursday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. Cuchlinski can be reached on 703-308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

BJB  
November 8, 2002



WILLIAM A. CUCHLINSKI, JR.  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600